

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:06cr271(3)
	§	
GEORGE THOMAS ROBERTS, JR.	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on February 7, 2011 to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Jay Combs.

On June 20, 2007, Defendant was sentenced by the Honorable Michael H. Schneider, United States District Judge, to a sentence of 24 months imprisonment followed by a 3-year term of supervised release, for the offense of possession of a firearm by a drug user. Defendant began his term of supervision on February 25, 2009.

On January 18, 2011, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 131). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance, and Defendant shall submit to one drug test within 15 days of release from

imprisonment and at least two periodic drug tests thereafter, as determined by the Court; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substance, except as prescribed by physician; (3) Defendant shall participate in a program of testing and treatment for alcohol and drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as Defendant is released from the program by the probation officer; (4) Defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month; and (5) Defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons.

The Petition alleges that Defendant committed the following violations: (1) on June 22, 2010, Defendant admitted in writing to using marijuana on June 10, 2010, on October 6, 2010, Defendant admitted in writing to using methamphetamine on October 5, 2010, and on November 1 and 16, 2010, and December 7 and 14, 2010, Defendant submitted diluted urine specimens at WNJ Workmed in Sherman, Texas, that tested positive for methamphetamine; (2) Defendant failed to submit urine specimens at WNJ Workmed in Sherman, Texas, on December 22, and 29, 2010; (3) Defendant submitted delinquent written reports for the months of June and July 2010; and (4) on June 5, 2010, Defendant quit his job at Simpson Crushed Stone, and Defendant was unemployed until December 2, 2010.

At the hearing, the Government withdrew the alleged violations set forth in paragraphs (2) through (4), and Defendant entered a plea of true to the alleged violations set forth in paragraph (1). Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his

supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the February 7, 2011 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of seven (7) months, with no supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Bureau of Prisons facilities located in Big Spring, Texas, if appropriate.

SIGNED this 8th day of February, 2011.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE